IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLICATION NO.321 OF 2007

Dyanu Balu Waghmode & Ors. : Applicants

V/s.

Jaysing Yeshwant Waghmode : Respondent

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Mr.A.M.Kulkarni for the applicants.

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CORAM : S.A.BOBDE, J.

DATE : JULY 02, 2007.

P.C.

1. By this Civil Revision Application, the applicants have challenged the order of the Special Land Acquisition Officer exercising powers of the Collector in revision under the Mamlatdar Courts Act.

2. The Mamlatdar had, on an application made by the applicants, granted an injunction directing the respondents to remove obstruction. This order has been interfered with and set aside by the Special Land Acquisition Officer exercising powers of the Collector in revision on the ground that such an injunction was not necessary since there were alternative routes available to

the applicants. This observation was made on the basis of evidence produced before the revisional authority.

3. It was contended on behalf of the applicants that the finding is erroneous in fact. It would not be appropriate to reverse a finding of fact arrived at on the basis of evidence unless an error of jurisdiction or a perversity is shown.

4. Moreover, the learned counsel for the applicants states that civil suit filed by the respondents regarding the same right of way is pending before the Civil Court, being Regular Civil Suit no.55 of 2006.

5. Having regard to the circumstances, I see no error of jurisdiction which requires interference under section 115 of the C.P.C. The revision petition is, therefore, dismissed. It is made clear that dismissal of the revision petition shall not, in any way, affect the decision of the civil suit in which the applicants are defendants.

S.A. BOBDE, J.